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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/343,958	06/30/1999	SERGE JEAN MAURICE MISTER	0500.9904131	8512

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EXAMINER	
ZAND, KAMBIZ	
ART UNIT	**PAPER NUMBER**
2132	6

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/343,958	MISTER, SERGE JEAN MAURICE	
	Examiner	Art Unit	
	Kambiz Zand	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-13,15-20,22-27,29-34,36 and 37* is/are rejected.

7)☒ Claim(s) *6,14,21,28 and 35* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. The text of those sections of Title 35,U.S.Code not included in this section can be found in the prior office action.
2. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.
3. Claims 1, 3, , 6, 8, 10, 12, 14, 21, 23-24, 28-29 and 35 have been amended.
4. Claims 1-37 are pending.
5. Examiner withdraws objection to the drawings and specification due to correction by the applicant.
6. Examiner withdraws rejection of claims 1-37 under 35 U.S.C 112-second paragraphs due to correction by the applicant.

Response to Arguments

7. Applicant's arguments filed 11/17/03 with respect to claims 1-5, 7-13, 15-20, 22-27, 29-34 and 36-37 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation " a method for facilitating.....for a software application" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but,

instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., " ...prevent keyboard sniffing applications and other applications attempting to intercept messages from a message queue of a particular application by inserting, for example fake messages" recited in page 13, paragraph two of the response) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As per Applicant's arguments that Fadem does not indicate "which data is the claimed actual data and which data is the claimed insertion data" as recited on page 13, last paragraph of the response, Examiner refers Applicant to col.12, lines 33-52 where the three data bits is considered as insertion data by Examiner where an 8 bit data contains the key stroke and where the other bits represent the actual data.

Applicant's arguments with respect to claims 6, 21, 35 are persuasive. Examiner has withdrawn the rejection of claims 6, 21, 35. Examiner further has withdrawn the rejection of claims 14 and 28 that contain same limitations of claims 6, 21 and 35.

Claim Rejections - 35 USC § 102

8. **Claims 1-5, 7-13, 15-20, 22-27, 29-34 and 36-37** are rejected under 35 U.S.C. 102(b) as being anticipated by Fadem et al (4,744,077).

As per claims 1, 16 and 30 Fadem et al (4,744,077) teach a method, apparatus and an storage medium for facilitating prevention of interception of incoming data that is provided for a software application, comprising the steps of: providing insertion data for insertion as part of the incoming data (see col.12, lines 33-52 wherein the 8 bit data contains keystroke data and LFC characters and an id bit, Examiner considers any of the three data bits as an insertion data); storing the generated insertion data; and filtering received incoming data containing actual data and the insertion data (see col.12, line 45-52 wherein the incoming data are stored in RCV FIFO) by comparing stored generated insertion data with incoming data to determine which data is actual data (see col.12, lines 54-66 wherein by examining the third bit of high order nibble of second and compare it to the lower nibble data that identified the user, it recognizes the data as keystroke or LFC character, therefore if the actual data is keystroke or LFC character and the insertion data is the id of the user then by comparison the actual data is retrieved, the same analogy could be used in reverse. Examiner's interpretation is based on the broad claim language that is recited in the above claims). Also see col.13-15.

As per claims 2, 17 and 31 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of processing the actual data resultant from filtering for use by the software application (see col.18, lines 13-20).

As per claims 3, 18 and 32 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of receiving the generated insertion data and actual data from a data input source; and queuing the insertion data with actual data for output as the incoming data (see col.11, lines 67-68 and col.12, lines 1-3).

As per claims 4, 19 and 33 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of analyzing foreground indication data and enabling generation of the insertion data in response to the foreground indication data (see col.18, lines 66-68 and col.19, lines 1-14 wherein in response to content of HRQ data the insertion of characters into the data is selected).

As per claims 5, 20 and 34 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of controlling timing of

insertion data generation and output based on data queue parameters (see col.13, lines 19-46).

As per claims 7, 22 and 36 Fadem et al (4,744,077) teach the method, apparatus and storage medium of claims 1, 16 and 30 including the step of storing a list of data representing data to be used as randomization data; randomly selecting the randomized data from the list of data; and formatting the randomized data as insertion data in a same format as actual data (see col.18, lines 66-68 and col.19, lines 1-14).

As per claim 9 Fadem et al (4,744,077) the method of claim 1 wherein the step of providing includes: providing the insertion data, under control of the software application that is to receive the incoming data (see col.17, lines 19-61).

As per claims 10 and 24 Fadem et al (4,744,077) a method and an apparatus for facilitating prevention of interception of incoming data that is provided for a software application, comprising the steps of analyzing foreground indication data and enabling generation of the insertion data in response to the foreground indication data (see col.18, lines 66-68 and col.19, lines 1-14 wherein in response to content of HRQ data the insertion of characters into the data is selected); storing a list of data representing data to be randomized; selecting data from the list of data as random insertion data (see col.18, lines 66-68 and col.19, lines 1-14); providing selected

insertion data for insertion as part of the incoming data; formatting the insertion data in a same format as actual data; storing the generated insertion data; mixing the insertion data with incoming data; and filtering received incoming data containing actual data and the random insertion data by comparing stored generated insertion data with incoming data to determine which data is actual data (see col.12, lines 33-52 wherein the 8 bit data contains keystroke data and LFC characters and an id bit, Examiner considers any of the three data bits as an insertion data); storing the generated insertion data; and filtering received incoming data containing actual data and the insertion data; col.12, line 45-52 wherein the incoming data are stored in RCV FIFO; see col.12, lines 54-66 wherein by examining the third bit of high order nibble of second and compare it to the lower nibble data that identified the user, it recognizes the data as keystroke or LFC character, therefore if the actual data is keystroke or LFC character and the insertion data is the id of the user then by comparison the actual data is retrieved, the same analogy could be used in reverse. Examiner's interpretation is based on the broad claim language that is recited in the above claims). Also see col.13-15.

As per claims 11 and 25 Fadem et al (4,744,077) the method, apparatus of claims 10 and 25 including the step of processing the actual data resultant from filtering for use by the software application (see col.18, lines 13-20).

As per claims 12 and 26 Fadem et al (4,744,077) the method, apparatus of claims 10 and 25 including the step of receiving the generated random insertion data and actual data from a data input source; and queuing the random insertion data with the actual data for output as the incoming data (see col.11, lines 67-68 and col.12, lines 1-3).

As per claims 13 and 27 Fadem et al (4,744,077) the method, apparatus of claims 10 and 25 including the step of controlling timing of random insertion data generation and output based on data queue parameters (see col.13, lines 19-46).

Allowable Subject Matter

9. Claims 6, 14, 21, 28 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Zand whose telephone number is (703) 306-4169. The examiner can normally reached on Monday-Thursday (8:00-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (703) 305-1830. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

Official (703) 872-9306

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Kambiz Zand
12/27/03